

DAC [signature]

BRINKS
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GILSON
& LIONE

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:

Date: April 7, 2005 Name: Tadashi Horie Reg. No. 40,437 Signature: [Signature]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Hiroji SAITO et al.

Appln. No.: 09/830,750

Filed: April 30, 2001

For: APPARATUS FOR TRANSMITTING PROGRAM INFORMATION, COMMUNICATING SYSTEM, METHOD OF TRANSMITTING PROGRAM INFORMATION, METHOD OF INSTRUCTING PROGRAM RECORDING OPERATION, AND METHOD OF INSTRUCTING PROGRAM PURCHASING OPERATION

Attorney Docket No: 9683/77

Examiner: GANTT, Alan T.

Art Unit: 2684

Mail Stop Patent Ext.
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ 4 Pages of Request for Reconsideration of the Patent Term Adjustment, Check for \$200
- ☒ Return Receipt Postcard

Fee calculation:

- ☐ No additional fee is required.
- ☐ Small Entity.
- ☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
- ☒ A petition or processing fee in an amount of \$200 under 37 C.F.R. § 1.18(e).
- ☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			x 100=			x \$200=	
First Presentation of Multiple Dep. Claim					+\$180=			+\$360=	
					Total	\$		Total	\$

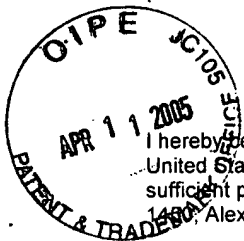
Fee payment:

- ☒ A check in the amount of \$200 is enclosed.
- ☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
- ☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
- ☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

April 7, 2005
Date

[Signature]
Tadashi Horie (Reg. No. 40,437)



CERTIFICATE OF MAILING

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April 7, 2005
Date of Deposit

Tadashi Horie Reg. No. 40,437
Name of Applicant, Assignee or
Registered Representative


Signature

April 7, 2005
Date of Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Hiroji SAITO
Tatsuji NAGAOKA
Tomoko MATSUURA
Mariko WAKAIZUMI

Appln. No.: 09/830,750

Filed: April 30, 2001

For: APPARATUS FOR TRANSMITTING PROGRAM
INFORMATION, COMMUNICATING SYSTEM,
METHOD OF TRANSMITTING PROGRAM
INFORMATION, METHOD OF INSTRUCTING
PROGRAM RECORDING OPERATION, AND
METHOD OF INSTRUCTING PROGRAM
PURCHASING OPERATION

Examiner: GANTT, Alan T.

Art Unit: 2684

Attorney Docket No: 9683/77

**REQUEST FOR RECONSIDERATION OF THE
PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)**

Mail Stop: Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

U.S. Patent Application No. 09/830,750 was granted an allowance on February 10, 2005, with a published term adjustment under 35 U.S. C. § 154(b) of 706 days. For the reasons stated herein, reconsideration of this patent term adjustment is respectfully requested.

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REMARKS:

Reconsideration of the patent term adjustment under 35 U.S.C. § 154(b) is respectfully requested. A Notice of Allowance was issued for U.S. Patent Application number 09/830,750 with a term adjustment of 706 days. A correction of the patent term adjustment to add at least 218 days to the patent term as shown below is respectfully requested.

The patent term adjustment for this U.S. patent application is calculated as shown below. Note that this application is not subject to a terminal disclaimer.

Period of adjustment under 37 C.F.R. § 1.703(a)

The period of adjustment under 37 C.F.R. § 1.703(a) is the number of days in the period beginning on the day ("the 14 month date") after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. § 111(a) and ending on the date of mailing of either an action under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. § 151, whichever comes first.

The present application was filed on April 30, 2001. The 14 month date specified in 37 C.F.R. § 1.703(a) is June 30, 2002. The first PTO action on the merits was an office action rejecting Claims 1-27 was mailed on July 7, 2004. The difference between the 14 month date and this Office Action date is 738 days.

Period of adjustment under 37 C.F.R. § 1.703(b)

The period of adjustment under 37 C.F.R. § 1.703(b) is the number of days in the period beginning on the day ("the 3 year date") after the date that is three years after the date on which the application was filed under 35 U.S.C. § 111(a).

The present application was filed on April 30, 2001. The 3 year date specified in 37 C.F.R. § 1.703(b) is April 30, 2004. This application has not issued as of yet, but the difference between the Notice of Allowance and the three year date is 286 days. However, these days overlap with 68 days of delay measured from the fourteenth

month date under 37 C.F.R. § 1.703(a). Accordingly, 68 days are not double counted under 37 C.F.R. § 1.703(f).

Reduction in period of adjustment under 37 C.F.R. § 1.704(b)

With respect to the grounds for adjustment set forth in 37 C.F.R. § 1.703(a)-(e), an applicant is deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods or time in excess of three months that are taken to reply to any notice or action by the Office. Any such three month period is measured from the date the notice or action was mailed to the applicant. The period of adjustment set forth in 37 C.F.R. § 1.703(b) shall be reduced by the number of days beginning on the day ("the 3 month date") after the date that is three months after the date of mailing of the Office communication.

In the present application, an Office Action was mailed on July 7, 2004. The 3 month date for this communication is October 7, 2004. The Response to this Action was received on November 8, 2004. Therefore, 32 days are assessed against the Applicants.

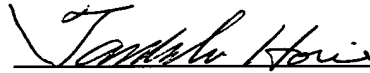
Total patent term adjustment

For the present application, the total patent term adjustment under 37 C.F.R. § 1.703(f) is the period of adjustment under 37 C.F.R. § 1.703 reduced by the required reduction of days under 37 C.F.R. § 1.704. The total adjustment is the sum of the § 1.703(a) days plus the § 1.703(b) days, minus the § 1.703(f) overlap exclusion minus the § 1.704(b) excess beyond three months that was incurred by the Applicants' response to the Office Action. The total adjustment is thus 738 days + 218 days – 32 days = 924 days as of the date of allowance, February 10, 2005. Applicants also respectfully request that the days that are accruing since the granting of allowance until the date of issuance be included in the Patent Term Adjustment as well, since this time period remains within the 37 C.F.R § 1.703(b) definition of the three year date.

It is respectfully submitted that in the calculation of the patent term adjustment determined for U.S. patent application number 09/830,750, the term was adjusted without regard to the three year date of § 1.703(b) and the sum of the allowable periods

per § 1.703 (f). Accordingly, Applicants respectfully request reconsideration of the patent term adjustment for this U.S. patent application. The fee according to 37 C.F.R. § 1.18(e) accompanies this request. Office personnel are invited to contact the undersigned Attorney for the Applicant via telephone if such communication would expedite this request.

Respectfully submitted,



Tadashi Horie
Registration No. 40,437
Attorney for Applicant(s)

Date: April 7, 2005

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